

Permanent Regulation - Informational Statement

A Regulation Relating to the Petroleum Fund Program

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

Nevada Board to Review Claims (Board) LCB File No: R009-16

Regulation R009-16:

This regulation increases the value of a corrective action task that requires three bids to be obtained, extends the timeframe for the submittal of proof of payment documentation indicating the Petroleum Fund (Fund) money was paid in the required amount of time to the appropriate recipients, imposes a delay in future payments if the Fund money is not paid timely or the proof of payment documentation is not received by the extended timeframe, and lastly, provides a mechanism for an owner to reclaim any refunded Fund money.

1. Need for Regulation:

The Nevada Division of Environmental Protection is responsible for administering the Petroleum Fund program. The regulation amendments are needed to facilitate better management of the program and also to increase the program's effectiveness for the environmental industry that works with the Petroleum Fund program on a routine basis. The Fund program was set up in 1989 as a reimbursement program. Since that time, industry business practices have evolved into a "paid when paid" process. These regulatory amendments will facilitate better accountability of the industry's payment process.

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

On March 14 and March 15, 2016, NDEP conducted public workshops on NDEP's Draft Regulation. The workshops were held in Carson City and Las Vegas, Nevada. The meeting location in Carson City was at the Legislative Building, room 2135, located at 401 S. Carson Street and the meeting in Las Vegas was at the Grant Sawyer Building, room 4412, located at 555 E. Washington Avenue.

Eight (8) members of the public were present at the Carson City workshop. Those people were:

Matthew Setty, Independent Consultant
Peter Mulvihill, Dept. of Public Safety (Board Member)
Wayne Seidel, Dept. of Motor Vehicles (Board Member)
Dean Armstrong, Independent Consultant
Grettel Martinez, UNR Student
Dan Dittman, UNR Student
Matt Herrick, Broadbent & Associates
Bryan Vetrano, Broadbent & Associates

Thirteen (13) members of the public were present at the Las Vegas workshop.

Those people were:

William Sanders, Member of the Public
Rob Gegenheimer, Converse Consultants
Kevin Paprocki, Converse Consultants
Steven Graham, Terracon
Peter Herrera, GQMC/EES
Zach Amos, Westmark Group
Eric Atamian, High Desert Petroleum
Jeffery Palmer, Ninyo & Moore
Grace Gillespie, Ninyo & Moore
Matt Grandjean, Stantec
Eileen Christensen, BEC Environmental, Inc.
Henrik Christensen, BEC Environmental, Inc.
Denne Rasmussen, NV Energy

Questions included, but were not limited to, how the inflation rate will be calculated and posted with respect to the dollar value that triggers three competitive bids, how payment delays will logistically work when a refund is due or the Proof of Payment documentation is not submitted timely,

There were no written comments.

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the Petroleum Fund website at: http://ndep.nv.gov/bca/docs/Workshop_Minutes.pdf.

Following the workshop, the Board to Review Claims held a formal regulatory hearing on June 2, 2016 at the Nevada Legislative Building, 401 South Carson Street, Carson City, Nevada and video conferenced at the Grant Sawyer Building, 555 E. Washington

Ave, Las Vegas, Nevada. A public notice and agenda for the regulatory meeting was posted at the State Library in Carson City, at the Office of the Division of Environmental Protection in both Carson City and Las Vegas, at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website and on the Petroleum Fund website.

The public notice and the proposed permanent regulation R009-16 were also made available at all public libraries throughout the state as well as to individuals on the Certified Environmental Manager email list and the Owner/Operator email list. The agenda was also posted pursuant to the Open Meeting Law.

Information regarding the summary of this regulation is available on the Petroleum Fund website at: http://ndep.nv.gov/bca/what_new.htm .

3. The number of persons who attended the Regulatory Hearing:

- (a) Attended June 2, 2016 hearing: 23 (approximately)
- (b) Testified on this Petition at the hearing: 0
- (c) Submitted to the agency written comments: 0

4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses through e-mail, public workshops and at the June 2, 2016 Board to Review Claims hearing as noted in number 2 above. No negative comments were received and information regarding the summary of this regulation is available on the Petroleum Fund website at:
http://ndep.nv.gov/bca/what_new.htm .

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted without changes because there were no negative comments received by NDEP and no testimony in opposition to the regulatory changes during the hearing.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

The revisions are expected to have a beneficial economic impact on the businesses it regulates and is expected to have no economic impact on the public.

The amendments are expected to economically benefit the businesses it regulates both immediately and long-term. The increase in corrective action costs requiring three competitive bids to be secured will reduce the industry's workload associated with the bid process. The extension of time for submittal of payment verification will reduce pressure on the environmental consultants. In addition, the delayed Board approval for subsequent claims of owners/operators who do not pay their vendors/contractors on time will provide an incentive to modify that practice so that Fund money will be distributed within the required 30 days. There are no immediate or long-term effects on the public.

7. The estimated cost to the agency for enforcement of the adopted regulation.

Implementation of the regulation is not expected to result in additional cost to the agency for enforcement.

8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations which the proposed revisions duplicate.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The regulation is not more stringent than federal law.

10. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulation does not address fees.